

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA, and)
THE STATE OF ILLINOIS,)

Plaintiffs,)

v.)

Case Number: 24-2592

THE CITY OF EAST ST. LOUIS,)
ILLINOIS)

Defendant.)

**CONSENT MOTION SEEKING TO EXTEND THE DEADLINES
IN THE ORDER ADOPTING THE JOINT REPORT AND
PROPOSED SCHEDULING AND DISCOVERY ORDER**

1. Plaintiffs, the United States of America (“United States”), on behalf of the Environmental Protection Agency (“EPA”), and the State of Illinois, on behalf of the Illinois Environmental Protection Agency, file this Motion to extend by six months the deadlines in the *Order Adopting the Joint Report and Proposed Scheduling and Discovery Order* for two reasons.

2. First, the United States recently installed several flow rate monitors at key locations within the City of East St. Louis’ (“City”) combined sewer system, with agreement from the City. These monitors will provide much needed data that will assist the parties and the Court in resolving the issues alleged in the Complaint. This real-time data allows the parties to obtain more information about the causes and effects of the overflows of the City’s combined sewer system. The United States contends that the parties’ positions on injunctive relief will become sharper and more refined as the monitors continue to collect data.

3. Second, three of the government attorneys working on this case (both attorneys from the Department of Justice and the senior attorney for the Environmental Protection Agency) recently departed from federal service or will be doing so imminently. While the new case team is

taking on information as quickly as possible, the United States seeks an extension to allow the new case team to better familiarize themselves with the case and, hopefully, narrow issues for this Court before trial.

4. Counsel for the City orally consented to the United States' request for an extension.

ARGUMENT

I. The Flow Rate Monitors

5. In May 2022, EPA and the City entered into an Administrative Order on Consent to address the City's failure to comply with certain requirements of its National Pollutant Discharge Elimination System permit. The Administrative Order on Consent required the City to, among other things, start monitoring combined sewer overflows.

6. As alleged in the Complaint and admitted in its Answer, the City never installed the equipment needed to monitor combined sewer overflows. *See* Complaint (ECF No. 1 at ¶116) and Answer (ECF No. 14 at ¶116). So, the United States installed flow rate monitors at critical locations within the City's combined sewer system on May 13-15, 2025.

7. These monitors will provide the United States and the City real-time access to the sewer system's flow rate and other information that will allow the parties to better understand the City's combined sewer system. In turn, that information will help the parties evaluate solutions to the problems identified in the Complaint.

8. It is clear, based on the City's Answer, that the City is missing critical information – both as it relates to the operation of its sewer system and the frequency of the alleged violations. *See, e.g.,* Complaint (ECF No. 1 at ¶117) (“As a result of the lack of monitoring, [Discharge Monitoring Reports] submitted for Outfalls 001, 002, and 003 do not contain the required information on [combined sewer overflow] events.”) and Answer (ECF No. 14 at ¶117) (“The City

of East Saint Louis admits the allegations contained in paragraph 117 of Plaintiffs' Complaint.''). These monitors help both sides close knowledge gaps about the City's sewer system.

9. The requested six-month extension will allow the parties to collect nearly a year's worth of data on the flow rate, frequency of combined and sanitary sewer discharges, and other relevant information before the proposed close of fact discovery.

10. The United States and State of Illinois believe that expert analysis and the parties' ability to formulate or refute targeted injunctive relief hinges in part on this data and an understanding of the scope of the discharges of combined sewage into local waterways.

II. The Case Team

11. The Department of Justice attorneys assigned to this case when the Complaint was filed left federal employment within the last 3 months. Unfortunately, with their departure, a combined nearly five years of knowledge about this case is no longer available. The United States quickly restaffed the trial team, which is working to get up to speed but that will take time given their assignments on other matters. Moreover, the senior EPA attorney, who has worked on this case since EPA began investigating this matter more than four years ago, is also retiring this month.

12. The City is not prejudiced by the requested extension. There are no outstanding discovery requests. More importantly, the extension gives the new case team time to gather data, and review years of case notes and information about the City's sewer system. Further, the knowledge gained during the extension will hopefully help the new case team avoid discovery disputes and foster a less adversarial relationship with the City during the discovery process.

13. In the end, the United States contends that this extension benefits all parties by giving everyone vital information on what appears to be the most important issue in this case – appropriate injunctive relief.

CONCLUSION

For the above stated reasons, the United States respectfully requests the Court enter an Order extending by six months the deadlines set in the Order Adopting the Joint Report and Proposed Scheduling and Discovery Order and for such other and further relief as this Court deems appropriate.

Date: June 9, 2025

FOR THE UNITED STATES OF AMERICA:

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CERTIFICATE OF SERVICE

I, Matthew Indrisano, hereby certify that on June 9, 2025, I electronically filed with the Clerk of the Court the *Consent Motion Seeking to Extend the Deadlines in the Order Adopting the Joint Report and Proposed Scheduling and Discovery Order* using the CM/ECF system, which will send notification of such filing to all registered users in the case.

Date: June 9, 2025

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